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THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of : **Confirmation No. 9008**
Shigeru HIRAMOTO et al. : Attorney Docket No. 2004_1149A
Serial No. 10/501,892 : Group Art Unit 1655
Filed July 20, 2004 : Examiner S. McCormick Ewoldt

HELICOBACTER PYLORI ADHESION
INHIBITOR

RESPONSE TO ELECTION OF SPECIES REQUIREMENT

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This is in response to the Election of Species Requirement dated October 26, 2005.

Firstly, Applicants hereby elect "animal proteins derived from milk" from claims 2 and 6, and "lactose" from claims 3 and 7.

Election is made with traverse.

The election requirement alleges that the species in issue do not relate to a single general inventive concept because they lack the same or corresponding technical features.

In this regard, the requirement alleges that AGA et al. (U.S. 2002/0068094) discloses the use of saccharides and proteins to inhibit the growth of *Helicobacter pylori*. However, AGA et al. merely discloses an extract comprising an ethyl acetate-soluble ingredient of an indigo plant. There is no description about sugars. The extract might comprise sugar and protein, but the characteristic feature of claim 1 of the present application is "a product of browning reaction of sugar and protein".

AGA et al. discloses nothing about the browning of sugar and protein. The browning is carried out by mixing sugars and proteins and heating the mixtures in an aqueous solution. Thus,

the browning reaction is a chemical reaction. There is no description about such a reaction in AGA et al.

In addition, as the requirement points out, the extract of AGA et al. inhibits the growth of *Helicobacter pylori*. In contrast, the active ingredient of claim 1 of the present application inhibits the adhesion of *Helicobacter pylori*.

Since the invention of claim 1 is not described nor suggested by AGA et al., the species herein have the same or corresponding special technical features which distinguish over the prior art.

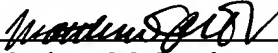
Accordingly, withdrawal of the Election of Species Requirement and favorable action on the merits are respectfully requested.

Respectfully submitted,

Shigeru HIRAMOTO et al.

THE COMMISSIONER IS AUTHORIZED
TO CHARGE ANY DEFICIENCY IN THE
FEES FOR THIS PAPER TO DEPOSIT
ACCOUNT NO. 23-0975

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